

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARNELL DANLEY,

Petitioner,

Case Number: 06-11123

v.

HONORABLE AVERN COHN

MILLICENT WARREN,

Respondent.

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**ORDER ADOPTING REPORT AND RECOMMENDATION AND
DENYING APPLICATION FOR WRIT OF HABEAS CORPUS**

I.

This is a habeas case under 28 U.S.C. § 2254. Petitioner Darnell Danley (Petitioner), a state prisoner convicted of first degree murder and possession of a firearm in the commission of a felony and serving a life sentence, claims he is incarcerated in violation of his constitutional rights. Petitioner specifically claims that there was insufficient evidence of premeditation and deliberation to support his first degree murder conviction. The matter was referred to a magistrate judge for a report and recommendation (MJRR). The magistrate judge recommends that the petition be denied for lack of merit.

II.

Before the Court are Petitioner's objections to the MJRR,¹ essentially presenting the same arguments considered by the magistrate judge as to why he believes the evidence was insufficient to support his first degree murder conviction. In Jackson v. Virginia, 443 U.S. 307, 319 (1979), the United States Supreme Court established that a federal court's review of a sufficiency of the evidence claim must focus on whether "after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." The Court must view this standard through the framework of 28 U.S.C. § 2254(d). See Martin v. Mitchell, 280 F.3d 594, 617 (6th Cir. 2002). The Jackson standard must be applied "with explicit reference to the substantive elements of the criminal offense as defined by state law." Jackson, 443 U.S. at 324 n. 16. "The mere existence of sufficient evidence to convict therefore defeats a petitioner's claim." Matthews v. Abramajtyts, 319 F.3d 780, 788-89 (6th Cir. 2003) (citation omitted).

As carefully explained in the MJRR, however, the state court's determination that there was sufficient evidence of premeditation and deliberation to convict Petitioner of first degree murder was not unreasonable determination of the facts as shown by the record or contrary to clearly established federal law. Although there were inferences from the facts which could have resulted in a different outcome for Petitioner, the inferences the jury made, which were reasonable, resulted in a finding of deliberation and premeditation. Overall, it cannot be said that the evidence was insufficient within the meaning of Jackson.

¹The portions of the MJRR that a party find objectionable are reviewed de novo . See 28 U.S.C. § 636(b)(1)(C).

Accordingly, the findings and conclusions of the magistrate judge are adopted as the findings and conclusions of the Court, as supplemented above. Petitioner's application for writ of habeas corpus is DENIED. This case is DISMISSED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: May 21, 2007

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, May 21, 2007, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160